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10/532,593	08/18/2005	Stuart Charles Wray	038665.56183US	4830

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CROWELL & MORING LLP		CRUTCHFIELD, CHRISTOPHER M
INTELLECTUAL PROPERTY GROUP		

ART UNIT	PAPER NUMBER
4144	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| **Office Action Summary** | Examiner | Art Unit | |
| | CHRISTOPHER M. CRUTCHFIELD | 4144 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *.18 August 2005*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-5* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-5* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All   b) ☐ Some *   c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/25/2005*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Detailed Office Action

Claims 1-5 are pending and have been examined.

Obviousness Rejection

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

> 1.   Determining the scope and contents of the prior art.
> 2.   Ascertaining the differences between the prior art and the claims at issue.
> 3.   Resolving the level of ordinary skill in the pertinent art.
> 4.   Considering objective evidence present in the application indicating obviousness
>   or nonobviousness.

3.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.   **Claims 1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Odom, et al.* (Cisco VOIP Call Admission Control, August 2001) in view of *Hosien*, et al. (US Patent No. 6,363,052 B1).

For Claim 1, *Odom, et al.* (Cisco VOIP Call Admission Control, August 2001) discloses a method of call admission control for a continuous stream of data in packet switched networks (Page 1, Second Paragraph) including at least two local area networks (*Odom,* Page 4, Figure 4 and Fourth Paragraph) communicating with one another across a connecting network (Page 4, Figure 4, WAN), where the call admission control is performed between the two local area networks (*Odom,* Page 4, Last Paragraph).

Odom, et al. does not disclose but *Hosien*, et al. does disclose that the call admission control comprises the steps of determining success rates of previous calls from a first switch to a second switch and deciding to drop the call attempt based on the success rates of previous calls (*Hosien*, Abstract). Thus it would have been obvious to a person of ordinary skill in the pertinent art at the time of the invention to implement the call admission control scheme of *Hosien*, et al. into the VOIP call admission control network of *Odom, et al.* The call admission control scheme of *Hosien*, et al. can be modified/implemented into the VOIP call admission control network of *Odom, et al.* by having the call manager/gateway of of *Odom, et al.* (*Odom,* Figure 4, Call Manager/Gateway) track successful and unsuccessful calls to networks across the WAN (*Odom,* Figure 4, WAN) and to admit or deny new calls based on the success rates of previous calls. The motive to combine the call admission control scheme of *Hosien*, et al. with the VOIP call admission control network of *Odom, et al.* is provided by *Hosien*, et al. and is to prevent internal overload of the destination switch/network (*Hosien*, Column 3, Lines 5-29).

For Claim 2, *Odom, et al.* (Cisco VOIP Call Admission Control, August 2001) discloses:

a. Determining current packet loss rate for calls from the first local area network to the

second local area network (*Odom,* Page 19, SAA Protocol and Calculated Planned

Impairment Value). (The SAA protocol sends packets from the SAA client on the

gateway device in the first LAN [*Odom,* Figure 4] to the server gateway in the other

network. It then measures the packet loss rate to determine the packet loss rate of calls

between the two networks. This value, along with others is used to perform client access

control.)

b. Deciding to drop the call attempt based on the current packet loss rate (*Odom,* Page

19, SAA Protocol and Calculated Planned Impairment Value). (See Supra in [a])

For Claim 3, *Odom, et al. and Hosien*, et al. do not disclose deciding to drop the call

attempt based on the current packet loss rate (as disclosed by *Odom,* Page 19, SAA Protocol

and Calculated Planned Impairment Value*) and* the success rates of previous calls (as

disclosed by *Hosien*, et al., Abstract). However, in light of the disclosure of *Odom, et al.* of a

compound call admission threshold consisting of latency and packet loss (*Odom,* Page 19, SAA

Protocol and Calculated Planned Impairment Value), it would have been obvious to a person of

ordinary skill in the art at the time of the invention to create a new compound admission control

threshold consisting of packet loss and the success rate of previous calls. A compound

admission control threshold can be modified/implemented into the VOIP call admission control

network of *Odom, et al.* by having the gateway/call manager of *Odom, et al. (Odom,* Figure 4,

Call Manager/Gateway) calculate both the success rate of previous calls (see claim 1, supra)

and the current packet loss rate (see claim 2, supra) and determining the admission control

threshold based on both rates. Therefore, a call admission control system taking into account

both the success rate of previous calls and the current packet loss rate of calls would have been

obvious because the substitution of the known element of a calculation based on call latency for

the known element of calculation based on the success rate of previous calls in a compound call

control algorithm would have yielded the predictable results to one of ordinary skill in the art at

the time of the invention of a compound call admission control algorithm that took into account

both the success rate of previous calls and the current packet loss rate of calls, thereby

providing a robust call admission control algorithm based on multiple metrics.

For Claims 4 and 5, *Odom, et al.* (Cisco VOIP Call Admission Control, August 2001) discloses:

   a. Transmitting a burst of trial data from a first node in the first local area network

   through the connecting network to a second node in the second local area network

   (*Odom,* Page 19, SAA Protocol). The SAA protocol sends packets from the SAA client

   on the gateway device in the first LAN [*Odom,* Figure 4] to the server gateway in the

   other network [*Odom,* Page 19, SAA Protocol].)

   b. Reflecting the burst of trial data received at the second node back to the first node

   (*Odom,* Page 19, SAA Protocol).

   c. Receiving the reflected burst of trial data at the first node through the connecting

   network (*Odom,* Page 19, SAA Protocol).

   d. Comparing the reflected burst of trial data to the transmitted burst of trial data to

   determine whether transmission of a continuous stream of data can be initiated from the

   first node in the first local area network to the second node in the second local area

   network (*Odom,* Page 19, SAA Protocol, Calculating Planned Impairment Value). (It is

   noted that in order to determine packet loss in a ping style test [*Odom,* Page 18, SAA

   Probes Versus Pings], the reflected burst of trial data must be analyzed and compared

to the data sent to determine if a portion of the burst was lost [i.e. if packet loss

occurred].)

Prior Art made of Record and not Relied Upon

The following prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

a. *Bahk,* et al. (US Patent No. 6,950,656 B1)

b. Ishikawa, et al. (US Patent No. 6801515 B1)

Contact Information

5.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Christopher M. Crutchfield whose telephone number is (571) 270-3989.

The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Garber, can be reached at 571-272-The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

6.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher M Crutchfield/
Examiner, Art Unit 4144
3/24/2008

/Charles D. Garber/
Supervisory Patent Examiner, Art Unit 4144